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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,451	08/14/2001	Akihiko Okada	Q65793	8140

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SUGHRUE, MION, ZINN  
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EXAMINER

BROOKS, MATTHEW L

ART UNIT	PAPER NUMBER
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3629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/928,451	<b>Applicant(s)</b> OKADA, AKIHIKO	
	<b>Examiner</b> Matthew L. Brooks	<b>Art Unit</b> 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-12 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the system components of the claims must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-8 and 14** are rejected under 35 U.S.C. 102(b) as being anticipated by PN: 6,009,078 (Kodimer).

4. With respect to **Claims 1, 2 and 14**: Kodimer discloses

A computer peripheral sales promoting system comprising:

a service status unit that detects a service status of a computer peripheral (C1, 63-68);

a customer product information storage device that stores specification information of said computer peripheral and user information which specifies a user of said computer peripheral and also consecutively updates and stores a service status detected by said service status detecting unit, wherein said service status detecting unit and customer product information storage device are provided in a computer which serves as an upper-level system for said computer peripheral (C2, 1-6 and C3, 14-20 → in regards to the option of having an “upper level” computer; and C4, 40-46 and C5, 45-52 and C6 30-42 and C12, 4-10) ; and

a sales promoting terminal for providing access to said customer product information storage device to thereby read out said specification information, said user information, and service status (C1, 45-53 and C12, 4-10 and C12, 55-65).

5. With respect to **claims 3 and 4**: Kodimer discloses

wherein said computer peripheral is arranged in a network (see Fig 1 and C1, 40-45 “network peripheral device).

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6. With respect to **claims 5-8**: Kodimer discloses

wherein said computer peripheral comprises a data storing apparatus (See Fig 1, 11 wherein a printer comprises a data storing apparatus in that it has a memory.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. **Claims 9-12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kodimer in view of Microsoft Computer Dictionary in further view of Official Notice.

Kodimer discloses all of the limitations as laid out above. Further still Kodimer claims nearly the identical invention as Applicant in that it detects the condition of a network peripheral device and notifies a sales promoting terminal; thus allow a sales person to confirm through the sales terminal the service status of a computer peripheral without taking trouble of visiting customers. Moreover Kodimer teaches being able to detect "exceeding a threshold quantity of usage" (C12, 50-65 and claim 3).

In fact the only thing Kodimer fails to teach is that the network peripheral device is *only* a data storing apparatus. And the status/quantity of usage determination is that "of a spent disk capacity and load status of said data storing apparatus".

The Examiner however directs attention to the Microsoft Computer Dictionary definition of "peripheral" page 360 that establishes the equivalency of printer and disk drive/data storage device in the computing art as known peripherals. *As noted in the Dictionary both printer and storage devices are standard peripherals used in conjunction with a computer.* The substitution of a storage device for the printer of Kodimer would have been obvious to one of ordinary skill in the art at the time of the invention as it is irrelevant whether a the computer peripheral is a printer or storage device so long as the status of the peripheral is detected and sent to a "sales promoting terminal" as each is a standard peripheral used by the ordinary artisan and both have been recognized in the art as such.

As to the actual "status" being detected and sent to the sales promoting terminal; the Examiner takes Official Notice that in the COMPUTER ART included within the bounds of checking the status of a storage device is that of checking the spent disk capacity and load status of said data storing apparatus as a convenient way for a user to determine available load capacity and future storage needs. It would have been obvious to one having ordinary skill in the art at the time of the invention to have checked for load status in the Kodimer reference if the peripheral was a storage apparatus as noted by Microsoft because the skilled artisan would have recognized that checking available/remaining disk space is key in checking the "status" of a storage

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device and that to automate this practice would save a consumer time of physically having to check disk storage and notify a sales terminal of the deficiency of load.

NOTE: Applicant's own submitted IDS substantiate Examiner's Official Notice that if one were checking status of a storage apparatus peripheral, that checking load is the way to go.

***Response to Arguments***

10. Applicant's arguments filed 12/19/2006 have been fully considered but they are not persuasive.

11. With respect to the drawings the it is again requested that the "customer product information storage device" be shown along with other system components properly shown in drawing or the features cancelled from the claims.

12. With respect to the only argument made on page 9 top of the page that Kodimer fails to disclose the "the service status is consecutively updated and stored..." Examiner first turns to Merriam Online dictionary for the definition of the word "consecutively".

**Merriam-Webster's Online Dictionary**

**consecutive**

One entry found for **consecutive**.

Main Entry: **con·sec·u·tive** 1)

Pronunciation: k&n-'se-ky&-tiv, -k&-tiv

Function: *adjective*

: following one after the other in order : SUCCESSIVE <served four *consecutive* terms in office>

- **con·sec·u·tive·ly** *adverb*

- **con·sec·u·tive·ness** *noun*

Learn more about "consecutive" and related topics at Britannica.com

In order for the reference to anticipate the broadest reasonable interpretation of the claims, the service status must be able to be updated and stored following one after the other. Support for this is found in Fig 18, s1086 and C1, 62-65 and C4, 18-25 and C9, 14-21 "thereafter, in the case the user revisits the page, and can update quickly", and C11, 42-52 and C12, 50-65 wherein here when the event is triggered by exceeding a threshold quantity of usage the system must be always detecting and or updating amount of usage.

**Conclusion**

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the



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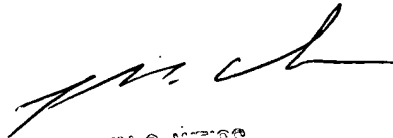
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Brooks whose telephone number is (571) 272-8112. The examiner can normally be reached on Monday - Friday; 8 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-8112. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MLB  
09/14/2006



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